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OFFICE OF PETITIONS

In re Application of :
Dideriksen, Feller, Harris, and :
Novak : DECISION REFUSING STATUS
Application No. 09/817,902 : UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001 :
Attorney Docket No. MS1-786US :

This is in response to the renewed petition under 37 CFR 1.47(a)¹ filed on 19 February, 2002. The Office apologizes for the delay in responding to the present petition.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 26 March, 2001, without an executed oath or declaration.

¹A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Accordingly, on 29 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, the statutory basic filing fee, additional claim fee(s), a signed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 29 November, 2001, petitioners filed a petition under 37 CFR 1.47(a), accompanied by a declaration naming Tedd Dideriksen, Chris Feller, Geoffrey Harris, Michael J. Novak, and Kipley J. Olsen as joint inventors and signed by all joint inventors except joint inventor Feller. Petitioners asserted that joint inventor Feller refused to sign the declaration. The petition was dismissed on 7 January, 2002, because petitioners had not provided sufficient proof that a complete copy of the application had been provided to joint inventor Feller.

In response, on 19 January, 2002, the present renewed petition was filed. Although petitioners have now shown that a copy of the application was provided to joint inventor Feller, it has been noted, upon further review, that the oath or declaration filed on 29 November, 2001, is defective in that it lacks the citizenship, mailing address, and residence of joint inventor Feller.

The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.² The declaration supplied with the application papers also lacks the citizenship of joint inventor Feller.³ A statement of the inventor's citizenship is a statutory requirement and cannot be waived.⁴ Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor, with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

²37 CFR 1.63(c).

³MPEP 605.01.

⁴35 U.S.C. § 115, MPEP 605.01.

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Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



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